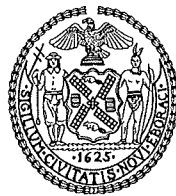


MEMO ENDORSED



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January 10, 2020

**By ECF and e-mail**

Hon. Andrew L. Carter, Jr.  
United States District Court  
Southern District of New York  
40 Foley Square, Room 435  
New York, NY 10007  
[ALCarterNYSDChambers@nysd.uscourts.gov](mailto:ALCarterNYSDChambers@nysd.uscourts.gov)

Re: *W.R., et. al. v. N.Y.C. Dep't of Educ.*, 19-cv-7655 (ALC)(BCM)

Dear Judge Carter:

I am a Special Assistant Corporation Counsel in the office of Corporation Counsel James E. Johnson, attorney for the Defendant in the above referenced action wherein Plaintiffs seek attorneys' fees, costs and expenses for legal work on an administrative hearing under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400, *et seq.*, as well as for this action. I write on behalf of the parties to respectfully request a 45-day extension of the parties' time to submit a Stipulation of Settlement and proposed Order of Dismissal pursuant to Rule 41(a)(1)(A)(ii) from January 13, 2019 to February 27, 2020. Due to disagreement between the parties with respect to the contents of this letter, the parties' positions are set forth separately.

As background, Plaintiffs filed a Due Process Complaint ("DPC") on June 30, 2017 concerning the 2017-2018 school year under Impartial Hearing ("IH") No. 166998, which was not resolved. Then, on July 2, 2018, Plaintiffs filed a second DPC concerning the 2018-2019 school year under IH No. 174637. On November 30, 2018, by Order of the Impartial Hearing Officer ("IHO"), IH Nos. 166998 and 174637 were consolidated under IH No. 166998, and ultimately all claims for both school years were resolved by the assigned IHO's decision dated May 4, 2019 (and as amended May 29, 2019). *See* Complaint ¶¶11-12 (ECF No. 1). This action for fees and costs followed.

**Defendant's Position**

The need for this extension arises from a dispute between the parties that has come to light—which the parties believe will likely be resolved—as discussed below. In their Complaint dated August 15, 2019, Plaintiffs sought fees for legal work representing the Plaintiffs, mentioning only IH No. 166998. The Complaint does not state or otherwise indicate that there are two separate claims for attorneys' fees. On August 29, 2019, Plaintiffs submitted attorney

billing records to Defendant. As the underlying administrative proceedings were consolidated and the billing records reflected work performed for both, Defendant relied in good faith upon Plaintiffs' submission of fees as the only fees requested in connection with the consolidated action. Our office analyzed Plaintiffs' submission, and negotiated a settlement of this case. At no time during that negotiation did Plaintiffs indicate or inform Defendant that there remained other billing records for which Plaintiffs believed they were entitled to be compensated. On December 13, 2019, we informed the Court that the parties reached a settlement of this matter and the parties would file a finalized Stipulation of Settlement and proposed Order of Dismissal pursuant to Rule 41(a)(1)(A)(ii) to the Court no later than January 13, 2020. (ECF No. 15).

Upon receipt of the proposed Stipulation of Settlement along with the standard releases, Plaintiffs informed Defendant that they did not include the billing records for IH No. 166998 in their submission of fees for this action. Without waiving any defenses to this additional claim, Defendant has agreed to consider these additional billing records. On December 24, 2019, Plaintiffs submitted those additional attorneys' fees and expenses in connection with this action. The requested extension will allow Defendant sufficient time to consider Plaintiffs' additional billing records and confer with Plaintiffs on the settlement status of this action.

#### Plaintiffs' Position

Plaintiffs filed a Due Process Complaint ("DPC") on June 30, 2017 concerning the 2017-2018 school year under Impartial Hearing ("IH") No. 166998. Then, on July 2, 2018, Plaintiffs filed a second DPC concerning the 2018-2019 school year under IH No. 174637. On November 30, 2018, by Order of the Impartial Hearing Officer, IH Nos. 166998 and 174637 were consolidated under IH No. 166998. In their Complaint dated August 15, 2019, Plaintiffs sought fees for legal work representing the Plaintiffs for both school years but included only the case number indicated on the final Decision And Order, IH No. 166998. On August 29, 2019, Plaintiffs submitted attorney billing records to Defendant and the parties negotiated a settlement of this case. On December 13, 2019, we informed the Court that the parties reached a settlement of this matter and the parties would file a finalized Stipulation of Settlement and proposed Order of Dismissal pursuant to Rule 41(a)(1)(A)(ii) to the Court no later than January 13, 2020. (ECF No. 15).

Upon receipt of the proposed Stipulation of Settlement along with the standard releases, Plaintiffs informed Defendant that due to an administrative oversight resulting from the consolidation of the two matters for the 2017-2018 and 2018-2019 school years, they did not include the billing records pertaining to the 2017-2018 school year in their submission of fees for this action. Defendant has agreed to consider these additional billing records. On December 24, 2019, Plaintiffs submitted those additional attorneys' fees and expenses in connection with this action. The requested extension will allow Defendant sufficient time to consider Plaintiffs' additional billing records and confer with Plaintiffs on the settlement status of this action.

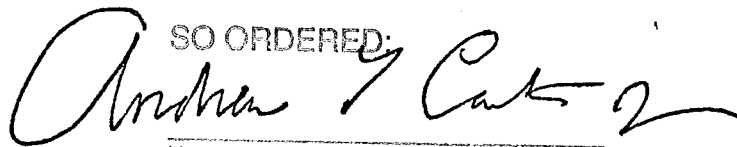
Accordingly, we respectfully request a 45-day extension of the parties' time to submit a finalized Stipulation of Settlement and proposed Order of Dismissal—if the parties can reach an agreement on the additional claim—from January 13, 2020 to February 27, 2020.

Thank you for considering this request.

Respectfully submitted,

/s/ Priscilla Denterlein  
Priscilla Denterlein  
Special Assistant Corporation Counsel  
*Attorney for Defendant*

/s/ Adam Dayan  
Adam Dayan  
*Attorney for Plaintiffs*

SO ORDERED:  
  
\_\_\_\_\_  
HON. ANDREW L. CARTER, JR.  
UNITED STATES DISTRICT JUDGE

January 13, 2020